

COMMONWEALTH OF MASSACHUSETTS

Suffolk

ss.

SUPERIOR COURT

Indictment Nos.

99-10201

COMMONWEALTH

vs.

Thomas M. Leadfiled
1/1WAIVER OF DEFENDANT'S RIGHTS

I have discussed the above case(s) and my constitutional and other rights with my attorney. I understand that by entering my plea of guilty I will be giving up my right to a trial by a jury or to a trial before a judge; to confront, cross-examine, and compel the attendance of witnesses; to present evidence in my defense; to remain silent and refuse to be a witness against myself by asserting my privilege against self-incrimination; all with the assistance of my defense attorney, and to be presumed innocent until proven guilty beyond a reasonable doubt.

I have been advised by my attorney of the nature of the charge or charges to which I am entering my guilty plea. I also have been advised by my attorney of the nature and range of the possible sentence or sentences. I have been advised of the recommendation on sentencing to be made by the Prosecution.

My guilty plea is not the result of force, threats, assurance or promises. I have decided to plead guilty voluntarily and freely, rather than at the direction of or because of the recommendation of any other person.

I am satisfied that my defense attorney has represented me in an effective and in a competent manner. I have had enough time to speak with him or her regarding any possible defenses I may have to the above charges.

I am not now on or under the influence of any drug, medication, liquor or other intoxicant or depressant, which would impair my ability to fully understand the constitutional and statutory rights that I am waiving when I plead guilty.

RENUNCIA DEL ACUSADO A SUS DERECHOS

Yo, he discutido el(los) caso(s) arriba mencionado(s), así como mis derechos constitucionales y demás derechos con mi abogado. Entiendo que al someter una alegación de culpabilidad renuncio a mi derecho de que mi juicio se ventile ante un jurado o ante un juez; a carearme con los testigos; contra-interrogarlos y obtener la comparecencia compulsoria de los mismos; a presentar pruebas en mi propia defensa; a permanecer en silencio y rehusar testificar en mi contra, haciendo valer así mi derecho a no incriminarme; y de hacer todo esto con la asistencia de mi abogado y a gozar de la presunción de inocencia hasta que quede comprobada mi culpabilidad fuera de toda duda razonable.

Mi abogado(a) me ha informado de la naturaleza del cargo (o cargos) ante los cuales alego mi culpabilidad. Mi abogado me ha informado cuál (cuáles) es (son) el alcance de la posible sentencia o sentencias. También he sido informado de la recomendación de sentencia que hará la Fiscalía.

Mi declaración de culpabilidad no es resultado de fuerza, amenaza, garantía o promesas. He decidido declararme culpable libre y voluntariamente y no bajo la directiva o debido a la recomendación de alguna otra persona.

Estoy satisfecho(a) con que mi abogado(a) me ha representado de forma efectiva y capaz. He tenido tiempo suficiente para discutir con él(ella) cualesquiera defensas a las cuales yo hubiese podido recurrir en los cargos ya mencionados.

En este momento no estoy bajo la influencia de ninguna droga, medicamento, alcohol u otro intoxicante o depresivo, que afecte mi capacidad de entender mis derechos constitucionales y legales, y los estoy renunciando mediante mi alegación de culpabilidad.

EXHIBIT

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162

ve been advised by Judge McDonnell
 I understand that if I am not a citizen of the
 ited States, a conviction in the above case(s)
 uld result in my deportation or exclusion
 rom admission to the United States under
 federal immigration law and that I may be
 rejected as an applicant for citizenship in the
 United States.

I understand that I give up the right to any and
 all defenses, and objections which I could assert
 to the above case(s). I also understand that I give
 up my right to appeal the Court's denial of any
 motions to dismiss or to suppress or to the
 Court's acceptance of my plea of guilty to the
 above offenses and imposition of sentence upon
 me.

11-1-99
 Date/Fecha

Tal y como me informase el/la Hon. Juez
 entiendo que si no soy
 ciudadano de los Estados Unidos, el que se me
 condene del(de los) cargo(s) arriba mencionados podría
 resultar en mi deportación o en el que se me excluya de
 ser admitido(a) a los Estados Unidos bajo las leyes
 federales de inmigración o en el que se me denegue la
 naturalización conforme a las leyes de los Estados
 Unidos y que mi solicitud a la ciudadanía de los
 Estados Unidos puede ser rechazad(a) ciudadano en los
 Estados Unidos.

Entiendo que estoy renunciando al derecho de presentar
 cualquier defensa u objeciones que podría hacer valer a
 mi favor en el(los) caso(s) arriba mencionado(s).
 Entiendo además que renuncio a mi derecho a apelar la
 denegación de un Tribunal de cualesquiera mociones
 para desestimar o suprimir o el que un Tribunal acepte
 mi alegación de culpabilidad ante los cargos arriba
 mencionados y la imposición de una sentencia sobre
 mi persona.

Thomas McLeod
 Print Name of Defendant
 Nombre del Acusado (letra de molde)

[Signature]
 Signature of Defendant
 Firma del Acusado

DEFENSE ATTORNEYS'S APPROVAL

I have discussed this case and the plea recommendation with my client in detail and have advised the
 defendant of all matters within the scope of Massachusetts Rules of Criminal Procedure Rule 12, including,
 the constitutional and other rights of the accused, the factual basis for and the nature of the offense or offenses
 to which the guilty plea will be entered, possible defenses, and the consequences of the guilty plea. After
 explaining the above to the defendant, I am satisfied that the defendant has understood my explanation.
 Moreover, I am satisfied that the defendant is not under the influence of any drug, medication, liquor or
 other intoxicant which can impair the defendant's ability to fully understand all the constitutional, statutory
 and/or other rights the defendant would waive when we discussed the consequences of a plea of guilty to the
 above indictment(s).

I represent to the Court that the Defendant has signed this document in my presence.

11/1/99
 Date

[Signature]
 Attorney for Defendant

542140
 BBO No.

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163



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK,ss

SUPERIOR COURT
CR. # 99-10201

COMMONWEALTH

V.

THOMAS MacLEOD

MEMORANDUM OF LAW and ORDER
[On Defendant's Motion For Funds]

On November 1, 1999 the defendant, Thomas MacLeod (Mr. MacLeod), pled guilty to breaking and entering with the intent to commit a felony as a habitual criminal pursuant to G.L. c. 266 §18 and c. 279 §25, respectively. He received a sentence of ten years to ten years and one day¹ to run concurrent with a sentence being served from Middlesex Superior Court and the sentence was imposed nunc pro tunc to May 17, 1999.

Mr. MacLeod moves for funds for an investigator claiming he was lawfully on the premises in question. There is a claim he received no benefit from pleading guilty as an habitual offender. As his counsel stated at the end of the plea colloquy he is parole eligible after serving ½ of his sentence pursuant to G.L. c. 127 §133B which is substantially less time than a straight sentence imposed under G.L. c. 266 §18.

However, notwithstanding the claim of no benefit from pleading guilty as an habitual offender, a review of the statement of facts recited by the ADA during the colloquy which Mr. MacLeod acknowledged as being true leaves no doubt that he committed the offense.

¹The sentence will be corrected to reflect the maximum allowable under the statute which is ten years.

RECEIVED
JUL 10 1999
CLERK OF COURT
SUFFOLK COUNTY
MASSACHUSETTS

ORDER

In the exercise of my discretion, I deny the motion for funds.


Elizabeth Bowen Donovan
Justice of the Superior Court

Date: February 6, 2002

EXHIBIT

3.

10-06-02

Thomas MacLeod
1 Administration Road
Bridgewater, MA 02324

Massachusetts • Pharmacy Service
1A 01876 • (978) 858-2121

Dear Tom,

Hey, how are you. I got your letter and understand you have a new attorney. I have a call into her (Alba Doto Baccari) and I'm waiting for her return call.

When you speak to Attorney Baccari, please let her know I'll do whatever I can to help out. That's a promise!

Please write me a more detailed letter and explain to me what's going on or have Attorney Baccari call me ASAP

I hope all is as well as it can be!

Your friend,
Dave Donahue

P.S. Hope all goes well with New Trial.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT

DOCKET NO.: SUCR99-10201

COMMONWEALTH

V.

DEFENDANT'S AFFIDAVIT IN SUPPORT OF
MOTION TO FOR NEW TRIAL

THOMAS MACLEOD

I, THOMAS MACLEOD, do depose and state:

EXHIBIT

4.

Commonwealth
365 East St. Tex

1. I appeared before this court on November 1, 1999.
2. In that proceeding, I plead guilty to a charge of brea entering with the intent to commit a felony, being charged as an habitual offender.
3. I was never informed that I had a right to trial on the habitual offender portion of the indictment, separate and apart from the right to trial on the breaking and entering charge.
- 4 My plea of guilty was predicated on the law as counsel explained it.
5. I was never informed at the time of my plea that there might be an issue regarding my right to a ^{jury} separate trial.
6. I was informed that it was in my best interest to plead guilty to the charge.
7. It is my understanding that I should have had the right to a trial on the habitual offender portion of my charge.
8. I wish to withdraw my guilty plea.

Signed under the pains and penalties of perjury.

Date: November 15, 2002


Thomas MacLeod